

Department of Health and Human Services

§ 31.2

does not exceed \$100,000) or the Department of Justice (if the debt exceeds \$100,000).

§ 30.35 GAO exceptions.

The Secretary will refer to the General Accounting Office (GAO) debts arising from GAO audit exceptions.

PART 31—REFERRAL OF DEBT TO IRS FOR TAX REFUND OFFSET

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AUTHORITY: 31 U.S.C. 3711, 3716, 3718; Section 2653 of the Deficit Reduction Act (31 U.S.C. 3720A); 26 CFR 301.6402-6T; and 45 CFR Part 30.

SOURCE: 53 FR 25593, July 8, 1988, unless otherwise noted.

§ 31.1 Scope.

(a) The standards set forth in §§ 31.1 through 31.11 are the Department's procedures for requesting the Internal Revenue Service (IRS) to offset tax refunds due taxpayers who have a past due debt obligation to the Department. These procedures are authorized by the Deficit Reduction Act of 1984 (31 U.S.C. 3720A), as implemented by regulation at 26 CFR 301.6402-6T, and apply to the collection of debts as authorized by common law, by 31 U.S.C. 3716, or under other statutory authority.

(b) The Secretary will use the IRS tax refund offset to collect claims which are liquidated or certain in amount, past due and legally enforceable, and which are eligible for tax refund offset under regulations issued by the Secretary of the Treasury.

(c) Except as provided in paragraph (d) of this section, the Secretary will

not report debts to the IRS except for the purpose of using the offset procedures described in §§ 31.1 through 31.11. Debts of less than \$25.00, exclusive of interest and other charges, will not be reported.

(d) If not legally enforceable because of the lapse of the statute of limitations but otherwise valid, a debt amounting to over \$600 will be reported to the IRS as a discharged debt on Form 1099G. (Form 1099G is an information return which government agencies file with the IRS to report discharged debt, and the discharged amount is considered as income to the taxpayer.) [See § 31.9; 45 CFR 30.31(b).]

§ 31.2 Notice of requirements before offset.

A request for reduction of an IRS tax refund will be made only after the Secretary makes a determination that an amount is owed and past due and provides the debtor with 60 calendar days written notice. The Department's Notice of Intent to Collect by IRS Tax Refund Offset (Notice of Intent) will state:

(a) The nature and amount of the debt;

(b) That unless the debt is repaid within 60 calendar days from the date of the Department's Notice of Intent, the Secretary intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as refunds of Federal taxes paid by an amount equal to the amount of the debt and all accumulated interest and other charges;

(c) That the debtor has a right to obtain review, within the Department, of the Secretary's initial determination that the debt is past due and legally enforceable (*See* § 31.3); and

(d) That the debtor has a right to inspect and copy departmental records related to the debt as determined by the Secretary and will be informed as to where and when the inspection and copying can be done after the Department receives notice from the debtor that inspection and copying are requested (*See* § 31.5).